

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

SUNNY SKY PRODUCTS NORTH  
AMERICA, LTD.,

Plaintiff,

VS.

U.S. BEVERAGE, INC., *et al.*,

Defendant.

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CIVIL ACTION NO. H-12-0816

**ORDER**

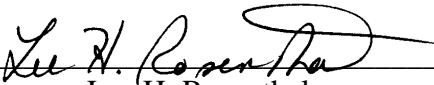
This case was administratively closed in August 2012 after the parties agreed to entry of an injunction requiring, among other things, the defendants, U.S. Beverage (USB) and Montgomery Business Capital, Inc. (MBC), to have all payments made to or received by USB from its customers or other sources, and all payments made to or received by MBC in payment for any obligation owed to USB, to be directed to SSP immediately. In November 2013, the plaintiff moved to reinstate, alleging that the defendants had defaulted on their obligations under the agreed injunction. At a hearing, the defendants stated their intent to move to dismiss based on the fact that the court's order administratively staying the case required the plaintiff to seek reinstatement within 14 days after an alleged default. However, the defendants did not seek dismissal. Instead, they sought sanctions for the plaintiff's failure to seek reinstatement timely. The sanctions they seek are limited to preventing the plaintiff from seeking fees or costs in connection with its motion to reinstate or its response to the sanctions motion.

The plaintiff's delay in moving to reinstate may be a basis to deny the plaintiff the relief it seeks, in whole or in part, including the payment of fees or costs. But the nature of the alleged

contempt — delay in seeking to reinstate a case after the defendants allegedly failed to perform an agreed injunction settling a dispute — and the lack of evidence of willful disobedience or bad faith make sanctions inappropriate. The motion for sanctions (Docket Entry No. 39) is denied.

A telephone conference is set for **July 30, 2014**, at 4:00 p.m. Counsel must confer with the court's case manager, Ms. Lisa Eddins, to arrange for participation.

SIGNED on July 10, 2014, at Houston, Texas.

  
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Lee H. Rosenthal  
United States District Judge